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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,761	02/26/2002	Koji Tezuka	FUJR 19.477	2295

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EXAMINER

COULTER, KENNETH R

ART UNIT PAPER NUMBER

2141

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/083,761

Applicant(s)

TEZUKA, KOJI

Examiner

Kenneth R. Coulter

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because Figure 1, item 11 "**INFORMAITON**".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6 - 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claimed invention is directed to non-statutory subject matter.

Independent claim 6 is directed to software that is not implemented on a computer readable medium.

Data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Bimm et al. (U.S. Pat. No. 6,901,440) (System and Method for Universal Service Activation).

4.1 Regarding claim 1, Bimm discloses a network management unit which manages configuration of a network, comprising:

a network element information manager which collects and manages network element information, including layer structure of each network element (Abstract; Figs. 1, 2, 3A, 4, 6; col. 7, lines 9 - 33);

a scenario manager which manages scenarios for use in building a model of the network; a network management model builder which builds and updates a network management model automatically in response to a network construction request, consulting the network element information in conjunction with the scenarios (Abstract; Fig. 3B; col. 10, lines 9 - 21); and

a network management model database which stores and manages the network management model (Fig. 7, item 356 "ORDER DB"; col. 11, lines 9 - 23).

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4.2 Per claim 2, Bimm teaches the network management unit according to claim 1, wherein said scenario manager manages the scenarios each containing:

component data objects which represent fundamental elements constituting the network management model (Abstract; Fig. 5, item 252; col. 9, lines 10 – 29; col. 9, lines 56 – 67 “network model objects”); and

a procedure data object which describes a series of operations for linking or delinking the component data objects (Abstract; Fig. 5, items 254 and 256; col. 9, lines 10 – 29 “rule engine for adding new managed objects (MOs) ...”; col. 9, lines 56 – 67 “**application rules** section 254”).

4.3 Regarding claim 3, Bimm discloses the network management unit according to claim 1, wherein:

the network construction request includes a change to be made to a particular point at physical layer of the network (Abstract; col. 10, lines 9 - 21); and

said network management model builder searches the network management model to find what is currently connected to the particular point, examines the result of the search in comparison with the network element information, and if the change affects the network management model, updates the network management model, using the relevant scenario retrieved from the scenario manager (Abstract; col. 9, lines 10 – 29; col. 10, lines 9 - 21).

4.4 Per claim 4, Bimm teaches the network management unit according to claim 1,

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further comprising a display controller which displays the network management model on a monitor screen, indicating a change or failure that has occurred in the network (Fig. 3B; col. 10, lines 9 – 21 “the network model objects maintain records for the managed elements and provide an interface model for **conveying information** (e.g., **alarm status**) through the **user interface to a user**.”).

4.5 Regarding claims 5 – 10, the rejection of claims 1 – 4 under 35 USC 102(e) (paragraphs 4.1 – 4.4 above) applies fully.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 – 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis et al. (U.S. Pat. No. 5,872,928) (Method and Apparatus for Defining and Enforcing Policies for Configuration Management in Communications Networks) (Dev et al. (U.S. Pat. No. 5,261,044 incorporated by reference (see col. 4, lines 43 – 47 in Lewis)))

6.1 Regarding claim 1, Lewis discloses a network management unit which manages configuration of a network, comprising:

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a network element information manager which collects and manages network element information, including layer structure of each network element (Abstract; Figs. 9, 10, 11; col. 4, lines 43 – 47; col. 5, lines 25 - 67);

a scenario manager which manages scenarios for use in building a model of the network; a network management model builder which builds and updates a network management model automatically in response to a network construction request, consulting the network element information in conjunction with the scenarios (Abstract; col. 4, lines 43 – 47; col. 5, lines 25 - 67); and

a network management model database which stores and manages the network management model (Abstract “model database”).

6.2 Per claim 2, Lewis teaches the network management unit according to claim 1, wherein said scenario manager manages the scenarios each containing:

component data objects which represent fundamental elements constituting the network management model (Abstract; col. 4, lines 43 – 47; col. 5, lines 25 - 67); and

a procedure data object which describes a series of operations for linking or delinking the component data objects (Abstract; col. 4, lines 43 – 47; col. 5, lines 25 - 67).

6.3 Regarding claim 3, Lewis discloses the network management unit according to claim 1, wherein:



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the network construction request includes a change to be made to a particular point at physical layer of the network (Abstract; col. 4, lines 43 – 47; col. 5, lines 25 - 67); and

said network management model builder searches the network management model to find what is currently connected to the particular point, examines the result of the search in comparison with the network element information, and if the change affects the network management model, updates the network management model, using the relevant scenario retrieved from the scenario manager (Abstract; col. 4, lines 43 – 47; col. 5, lines 25 - 67).

6.4 Per claim 4, Lewis teaches the network management unit according to claim 1, further comprising a display controller which displays the network management model on a monitor screen, indicating a change or failure that has occurred in the network (col. 2, lines 45 - 49).

6.5 Regarding claim 5, Lewis discloses the network management unit according to claim 1, wherein said network management model database manages each network element in the network management model as a subnetwork that is defined according to the layer structure thereof, storing components of the network management model in the form of resource objects (Abstract; Figs. 9, 10, 11; col. 4, lines 43 – 47; col. 5, lines 25 - 67).

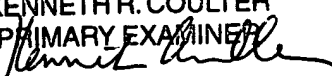
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6.6 Regarding claims 6 – 10, the rejection of claims 1 – 5 under 35 USC 102(b) (paragraphs 6.1 – 6.5 above) applies fully.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R. Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER  
PRIMARY EXAMINER  


krc